

Governor Tim Walz  
Lt. Governor Peggy Flanagan  
Office of the Governor of Minnesota  
130 State Capitol  
St. Paul, MN 55155

July 24, 2019

Dear Governor Walz and Lt. Governor Flanagan:

We ask you to direct the MPCA to fully cooperate with every investigation into the scandal involving MPCA attempts to keep written EPA staff concerns about the PolyMet mine proposal out of the public record, and the newly released document showing the MPCA failed to address many EPA concerns.

Moreover, we must find out not only whether state and federal environmental agencies failed to do their work properly, but also to look at the *outcome* of that process—the permits that were granted to PolyMet. Accordingly, we ask that you suspend the permits that the MPCA and DNR granted last year.

We need to recognize that this flawed process resulted in flawed permits. There are three *major* new pieces of information available that merit a revisiting of the permits and the failures in the process that produced them, including:

- The discovery that agencies involved in the permitting process failed to seriously address both EPA concerns and those raised by their own consultants, preventing the rigorous analysis needed,
- The tragic dam collapse, and the subsequent decommissioning of other mining dams in Brazil similar to the proposed PolyMet tailings dam, showing the folly of approving such a risky system in Minnesota, and
- The recent news that a corporation as irresponsible as Glencore now holds a majority of PolyMet shares, making it clear that the sham “financial assurance” required of PolyMet will leave Minnesota taxpayers financially responsible for the expensive cleanup.

The scandal at the Minnesota Pollution Control Agency (MPCA) over EPA concerns related to PolyMet certainly has the appearance of a cover-up. There is no good explanation for the MPCA telling EPA scientists and engineers—who are responsible for protecting our waters—to refrain from sending their detailed concerns in writing. The chosen alternative of rapidly reading a letter over the phone should have raised red flags.

As the Timberjay newspaper bluntly stated, “Let’s make no bones about it—this appears to be a significant state agency scandal suggesting intentional malfeasance by top officials in the MPCA. Failure to investigate how this happened would seriously undermine the public’s confidence in state environmental regulators.”<sup>i</sup>

Congresswoman Betty McCollum said the leaked email “appears to represent an absolutely intolerable breach of the public trust by two regulatory agencies,” and that the public has the right to question “whether the PolyMet permitting process was rigged against the legitimate environmental and public health interests of Minnesotans.”

To ensure that the permits were not rigged, we request that you suspend the permits until they are rewritten to protect Minnesota’s environment and financial interests. We highlight three specific concerns about some of the permits:

1. The DNR must modify the tailings (waste rock) storage permit to require best practices, like dry tailings storage. Minnesota should accept nothing less after the tragic collapse of a similar tailings dam in Brazil that killed 250 people. Also, a mining engineer *hired by the DNR as a consultant* described the dam design as a “*Hail Mary* type of concept” that “will eventually fail.”<sup>ii</sup> Don Sutton, that DNR mining consultant, said the plan gives him “severe indigestion because a lake on top of a pile of sand is inherently unstable and irresponsible. The dam embankments are a stair step arrangement that is inherently geomorphically unstable[.]”<sup>iii</sup> Sutton was surprised that Minnesota law allows a temporary tailings impoundment dam to be authorized for permanent waste storage. He said that other jurisdictions wouldn’t allow this.<sup>iv</sup> Downstream citizens and elected officials requested a contested case hearing to review this issue, a hearing which the DNR declined to order.

Proponents of PolyMet often state that if mining is not done in Minnesota, it will be done in other countries with lower health, safety, and environmental standards. However, the opposite might be closer to the truth:

After the recent dam collapse, Brazil has now banned this type of dam and is decommissioning existing ones.<sup>v</sup> It is shocking that Minnesota would permit PolyMet to open a new mine using such a risky system, when even Brazil now prohibits them.

2. The DNR must modify the financial assurance requirements so that those who profit from the mine are required to provide a full “damage deposit” to cover clean-up and on-going water treatment. The DNR recognized that a damage deposit of over a billion dollars would be needed for the type of operation allowed under the current permits.<sup>vi</sup> However, Glencore, which now owns 70 percent of PolyMet, is not even mentioned in the financial assurance provisions. The permit that was issued by the DNR does not protect taxpayers if PolyMet is unable to provide the financial assurance required once the mining operations begin. If PolyMet does not have the capital to pay for clean-up costs, it will leave taxpayers holding the bag.

Glencore, the true power behind the PolyMet project, has structured the financing so they would get the first profits from the mine and then wash their hands of the problem. They have shown themselves to be one of the most irresponsible companies around.<sup>vii</sup>

Because PolyMet is unable to provide the appropriate damage deposit, the DNR must have an iron-clad requirement that Glencore, now majority owner of PolyMet, be held liable for all cleanup costs by providing a full up-front damage deposit.

3. Conduct a study of the health impacts of the project. Minnesota health professionals, including the Minnesota Academy of Family Physicians and Minnesota Nurses Association, called for a health impacts study, but the Department of Health has not conducted one. Sulfide mining releases toxic chemicals into the environment, and we should listen to the medical experts who believe the health impacts from the mine must be studied.

There has been broad recognition of the need to investigate the apparent cover-up of shoddy practices in the permitting process. We request that you suspend the permits until they are rewritten to address these flaws and protect Minnesota's environment and financial interests.

We would be pleased to discuss this further and ask for your strong leadership to protect Minnesota's public health, our waters, and the financial obligations of our taxpayers by suspending the permits until these problems are fully resolved.

Sincerely,



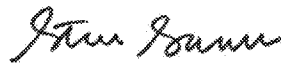
Sen. John Marty



Rep. Kelly Morrison



Rep. Alice Hausman



Rep. Steve Sandell



Rep. Mohamud Noor



Sen. Jerry Newton



Sen. Richard Cohen



Rep. Alice Mann



Rep. Heather Edelson



Sen. Jim Carlson



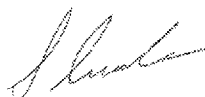
Rep. Mary Kunesh-Podein



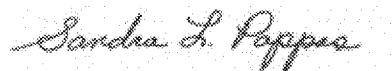
Sen. Patricia Torres Ray



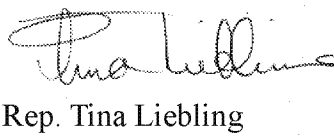
Rep. Connie Bernardy



Sen. Steve Cwodziński



Sen. Sandy Pappas



Rep. Tina Lieblich



Rep. Jim Davnie



Sen. Carolyn Laine

## References

<sup>i</sup> <http://www.timberjay.com/stories/editorial-investigate-the-mpca.15175>

<sup>ii</sup> [https://www.senate.mn/members/issues/1035\\_Marty\\_John/Polymet%20Hail%20Mary%20-%20MCEA%20Ex%2023.pdf](https://www.senate.mn/members/issues/1035_Marty_John/Polymet%20Hail%20Mary%20-%20MCEA%20Ex%2023.pdf)

<sup>iii</sup> [https://files.dnr.state.mn.us/lands\\_minerals/northmet/final\\_permit/02-ptm-findings.pdf](https://files.dnr.state.mn.us/lands_minerals/northmet/final_permit/02-ptm-findings.pdf), p.34

<sup>iv</sup> Ibid.

<sup>v</sup> <https://www.cbc.ca/news/world/brazil-bans-upstream-mining-dams-1.5023566> “Brazil's government banned new upstream mining dams on Monday and ordered the decommissioning of all such dams by 2021...”

<sup>vi</sup> [https://files.dnr.state.mn.us/lands\\_minerals/northmet/final\\_permit/01-polymet-ptm-northmet-approval.pdf](https://files.dnr.state.mn.us/lands_minerals/northmet/final_permit/01-polymet-ptm-northmet-approval.pdf), see Appendix A, p. 2

<sup>vii</sup> <https://www.minnpost.com/environment/2019/06/polymet-is-now-owned-by-switzerlands-glencore-why-it-matters/> Glencore has a checkered past dating back to allegations against its founder, Marc Rich, who was indicted for tax evasion and dodged sanctions on apartheid South Africa and elsewhere to cut oil deals. (Rich was pardoned by Bill Clinton in 2001.) The company is currently facing investigations into corruption and money laundering by the Department of Justice and the U.S. Commodity Futures Trading Commission. Critics also point to Glencore’s history of labor disputes and environmental problems as evidence that having a giant multinational corporation as PolyMet’s majority shareholder could hurt Minnesota.

In 2015, the United Steelworkers union gave Glencore a “silver medal” in “corporate irresponsibility,” a news release from the time says. USW had been involved in a labor dispute with Glencore at sites in Texas and said in a news release that “allegations of firings, anti-union intimidation and tax evasion have followed Glencore to work sites all over the world. Glencore has mistreated workers and harmed communities on nearly every continent,” said Ruben Garza, USW District 13 Director, in the release.